

1999 DRAFTING REQUEST

Bill

Received: **04/05/1999**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Tim Hoven (608) 267-2369**

By/Representing: **Pat Essie**

This file may be shown to any legislator: NO

Drafter: **rmarchan**

May Contact: **Pat Essie: 256-7701**

Alt. Drafters:

Subject: **Fin. Inst. - int. rates/loans**
Fin. Inst. - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Payday loan companies

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	rmarchan 04/21/1999	wjackson 04/21/1999	martykr 04/26/1999	_____	lrb-docadmin 04/26/1999		State
	rmarchan 04/30/1999	wjackson 04/30/1999		_____			
/P2	rmarchan 06/01/1999	wjackson 06/01/1999	martykr 05/03/1999	_____	lrb-docadmin 05/03/1999		State
/P3	rmarchan 10/12/1999	wjackson 10/14/1999	martykr 0610211999	_____	lrb-docadmin 06/02/1999		State
/1		chanaman 10/15/1999	jfrantze 10/15/1999	_____	lrb-docadmin 10/15/1999		State

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

12			hhagen _____ 10/15/1999 _____		lrb_docadmin 10/15/1999		lrb_docadminState 11/23/1999
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FE Sent For:

<END>

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	rmarchan 04/30/1999	wj ackson 04/30/1999		_____			
/P2	rmarchan 06/01/1999	wj ackson 06/01/1999	martykr 05/03/1999	_____	lrb-docadmin 05/03/1999		State
/P3	rmarchan 10/12/1999	wj ackson 10/14/1999	martykr 06/02/1999	_____	lrbdocadmin 06/02/1999		State
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/1			jfrantze 10/15/1999	_____	lrb-docadmin 10/15/1999		State

*cmh
10/14/99
12* *ca 10/15* *ca JF 10/15*

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/P1	rmarchan 04/21/99	wjackson 04/21/99	martykr 04126199	_____	lrb-docadmin 04/26/99		State
	rmarchan 04/30/99	wjackson 04/30/99		_____			
/P2	rmarchan 06/1/99	wjackson 06/1/99	martykr 05/3/99	_____	lrb-docadmin 05/3/99		State
/P3		<i>1 WLj 10/14</i>	martykr 06/2/99	_____	lrb-docadmin 06/2/99		State

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J 10/14 *J 10/15*

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Fin. Inst. - miscellaneous

Extra Copies: *PAT ESSIE (see previous request sheet)*

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	rmarchan 04/30/99	wjackson 04/30/99		_____			
/P2		<i>/p3 6/1 WJ</i> wjackson	martykr 05/3/99	_____	lrb-docadmin 05/3/99		State

Handwritten signatures and initials: "m 6/1" and "J 6/1" with "m 1" below.

FE Sent For:

<END>

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For: Tim Hoven (608) 267-2369

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Drafter: rmarchan

May Contact: Pat Essie: 256-7701

Alt. Drafters:

Subject: Fin. Inst. - int. rates/loans
Fin. Inst. - miscellaneous

Extra Copies: Patrick Essie
16 N. Carroll Street, Suite 900
Madison, WI 53703

Pre Topic:

No specific pre topic given

Topic:

Payday loan companies

Instructions:

See Attached

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/P1	rmarchan 04/21/99	wjackson 04/21/99	martykr 04/26/99	_____	lrb_docadmin 04/26/99		State

FE Sent For:

1/p2 4/30 WLJ km 5/3
km 5/3
<END>

yes

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1/?	rmarchan	pl 4/21 Wlj	Km 4/21	JJ Km 4/22			

FE Sent For:

<END>

Hovers office Pat Esser (represents paying loan folks)
7-2369

Hovers, Kunkel (steps) Tim = requester
+

DFI is involved behind the scenes

Points of interest

1. Specific disclosure form, approved by DFI, for deferred deposit/paying loan business. Would be in addition to current disclosures.
 - Purpose statement in bold that ~~reason loan is not~~ intended to meet long term needs. Intended only for ~~financial~~ financial emergencies of ≤ 4 weeks in duration.
 - The cost of the loan is _____; How if you do not ~~take the loan~~ ~~take the loan~~
Call him close every, then loan may cost significantly more. For e.g., if you ~~take~~ ^{refinance} the loan for 16 weeks, the loan will cost you _____.
 - place for person to sign having read the document.

Separate sector for PDL businesses. Like "any PDL co. that is a licensed lender under 138.09 shall provide the following disclosures:

10

1. 1000

1000

1000

•

1000

1000

Penalty?

2. DFI directed to do rule

- educational materials to be distributed to all
 - PDL cos to distribute to consumers
 - educational notice posting requirements
 - Come to study ~~with~~ strategies for elderly consumers. Regs section center for sp. g. consumers, PDL C.O.S., trade groups
- long term public access credit for PDL cos + recommend legislation

1. House Amendment to the Draft

No finance charge / interest may be charged ~~after~~ after 2 days after default.

If consumer fails to pay after due, then lender shall cease charging interest 2 days after that due date.

Check "late payment" language in state's now + parrot it.

2. House Amendment to Draft

Can only receive new loan to 90% of max of extension loan w/ that PDL Limit refinanced / rollover to 3 consecutive times.

3.

PDL is my not rule loan to individuals ~~who determine the~~ who determine the ~~of~~ of ~~and~~ and easy loans for PDL cos. DFI rules determine acceptable methodology gathering this info other than from consumers.

10

11

12

13

14

15



State of Wisconsin
1999 - 2000 LEGISLATURE

P1

LRB-2688

RJM:f:...

WJ

5000

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMC
DNOTE

Enact

1

AN ACT ~~relating to~~; **relating to:** pay day loan services and granting rule-making authority.

2

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

For further information **see** the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3

SECTION 1. 138.14[√] of the statutes is created to read:

4

138.14 Payday loan services. (1) DEFINITIONS. In this section:

5

(a) "Applicant" means a person who obtains or seeks to obtain a payday loan.

6

(b) "Check" has the meaning given in s. 403.104 (6).[√]

7

(c) "Department" means the department of financial institutions.

8

(d) "Payday loan" means a transaction between a person and the issuer of a

9

check in which the person agrees to do all of the following:

- 1 1. Accept a check from the issuer.
- 2 2. Hold the check for a period of time without negotiating or presenting the
- 3 check for payment.
- 4 3. Pay to the issuer the amount of the check, less any applicable fee, upon
- 5 accepting the check.

6 (e) "Payday loan service" means a person licensed under s. 138.09 who makes
 7 payday loans in the ordinary course of business.

8 (2) DISCLOSURE REQUIREMENTS. Before disbursing funds pursuant to a payday
 9 loan, a payday loan service shall provide all of the following to the applicant:

10 (a) A clear and conspicuous printed or typewritten notice indicating all of the
 11 following:

- 12 1. That a payday loan is not intended to meet long-term financial needs.
- 13 2. That a payday loan is meant to provide funds in a financial emergency.
- 14 3. That the ^{applicant} will be required to pay additional fees if the loan is refinanced rather
 15 than paid in full when due.

16 (b) A clear and conspicuous printed or typewritten notice comparing the cost
 17 of the proposed payday loan if paid in full at the end of the loan term with the cost
 18 of the payday loan if consecutively refinanced and then paid in full 16 weeks after
 19 the date of the original payday loan.

20 (c) A clear and conspicuous printed or typewritten notice that the applicant may
 21 cancel the transaction, at no cost to the applicant, at any time before receiving the
 22 funds pursuant to the payday loan,

23 (d) Educational materials provided by the department under sub. (4).[✓]

24 (3) POSTING REQUIREMENT. A payday loan service shall post a copy of each notice
 25 required under sub. (2) (a) and (c) at each entrance to the payday loan service and

1 at each location on the premises of the payday loan service where, in the ordinary
2 course of business, an applicant signs a contract for a payday loan.

3 **(4) ADMINISTRATION.** (a) The department shall promulgate rules and prescribe
4 forms to ensure the efficient administration of this section. In addition, the
5 department shall develop educational materials to inform an applicant of the
6 potential costs of entering into a payday loan and of other options for borrowing funds
7 that may be available to the applicant.

8 (b) Upon the request of a payday loan service, the department shall supply the
9 pay^Aday loan service with copies of the educational materials developed under par.
10 (a)! The department may charge a pay^Uday loan service a reasonable fee for
11 educational materials supplied under this subsection.

12 **SECTION 2. Nonstatutory provisions.**

13 (1) **SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN SERVICES.** No later
14 than the first day of the 6th month beginning after publication^Q the department of
15 financial institutions shall submit in proposed form the rules governing payday loan
16 services under section 138.14 (4)^J of the statutes, as created by this act, to the
17 legislative council staff under section 227.15 (1)^V of the statutes.

18 **(2) PAYDAY LOAN SERVICES STUDY COMMITTEE.** (a) The secretary of the department
19 of financial institutions shall establish a committee under section 15.04 (1) (c) of the
20 statutes to study consumer credit problems created by payday loans and payday loan
21 services, as defined under section 138.14 (1)^V of the statutes, as created by this act,
22 and shall recommend to the legislature a solution or policy alternatives with respect
23 to those problems. The committee shall consist of the secretary of the department
24 of financial institutions, or a person designated by the secretary, 3 members who
25 shall represent the interests of payday loan services, as defined under section 138.14

1 (1) of the statutes, as created by this act, and 3 members who shall represent the
 2 public interest. The secretary of the department of financial institutions, or a person
 3 designated by the secretary, shall serve as the chairperson of the committee.

4 , (b) No later than the first day of the 12th month beginning after publication,
 5 the committee shall submit a report of its findings and recommendations to the
 6 legislature in the manner provided under section 13.172 (2) of the statutes. The
 7 report shall include any proposed legislation that is necessary to implement the
 8 recommendations made by the committee in its report.

9 **SECTION 3. Initial applicability.**

10 (1) The creation of section 138.14 of the statutes first applies to payday loans
 11 made on the effective date of this subsection.

12 **SECTION 4. Effective date.**

13 (1) The creation of section 138.14 of the statutes and SECTION% (1) of this act
 14 take effect on the first day of the 8th month beginning after publication.

15 (END)

Auto Ref (A)

Auto Ref (B)

Auto Refs (A) (B)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**


LRB-2688/P1dn

RJM:/:....


wlj

1. Attached is the payday loan draft you requested through Pat Essie. Please review the draft carefully to ensure that it satisfies your intent. In particular, please review the nonstatutory material regarding the study committee and the submission of proposed rules. Both the timeline and the substantive material in these sections can be changed.

2. Currently, this draft contains no specific penalty provision. A violation of this **draft** would be subject to a forfeiture of up to \$200. Please let me know if you intend a different penalty to apply.

4.  This draft **is** in preliminary form and contains no analysis. I will redraft the bill in introducible form after you approve of the bill's content. Please feel free to contact me with any questions or suggested changes. I look forward to hearing from you.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

3.  You have also requested three amendments to this draft regarding credit checks, limitations of interest upon default and limitations on refinancing payday loans. It is most ~~in~~ draft these amendments after the bill is in its final, introducible form. Once the bill is in introducible form, I should be able to draft the requested amendments rather quickly.

efficient to

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2688/P1dn
RJM:wlj:km

April 21, 1999

1. Attached is the payday loan draft you requested through Pat Essie. Please review the draft carefully to ensure that it satisfies your intent. In particular, please review the nonstatutory material regarding the study committee and the submission of proposed rules. Both the timeline and the substantive material in these sections can be changed.

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3. You have also requested three amendments to this draft regarding required credit checks, limitations of interest upon default and limitations on refinancing payday loans. It is most efficient to draft these amendments after the bill is in its final, introducible form. Once the bill is in introducible form, I should be able to draft the requested amendments rather quickly

4. This draft is in preliminary form and contains no analysis. I will redraft the bill in introducible form after you approve of the bill's content. Please feel free to contact me with any questions or suggested changes. I look forward to hearing from you.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

Marchant, Robert

To: Welsh, Michael
Subject: Preliminary amendment language

Michael--

Here is the preliminary language for the requested amendments. I am forwarding a copy of this **email** to Pat Essie's office so that he will also have the language. As I mentioned, I can not efficiently draft the amendments until the bill itself is in introducible form because the amendment must refer the line numbers of the bill.

I look forward to hearing from you.

Robert J. Marchant
Legislative Attorney
State of Wisconsin Legislative Reference Bureau
robert.marchant@legis.state.wi.us

AMENDMENT ONE:

(3g) Charges upon default. Notwithstanding ss. 138.09 (7) (c) and (e) and s. 422.203, if an applicant fails to make a payment due under a payday loan on or before the payment's scheduled or deferred due date, the payday loan service shall not do any of the following:

(a) Impose a delinquency charge.

(b) Charge interest if the payment remains unpaid at least 2 days after the final scheduled maturity date of the payday loan.

AMENDMENT TWO:

(3r) Refinancing payday loans. Notwithstanding ss. 138.09 (7) (f), 422.204 and 422.206, a payday loan service shall not enter into a combined total of more than 3 consecutive payday loans, refinancing agreements, deferral agreements or consolidation agreements with an applicant if each loan or agreement is used by the applicant to pay or forestall payment of an existing debt under a payday loan with the payday loan service.

AMENDMENT THREE:

(1 m) Required applicant information. Before disbursing funds pursuant to a payday loan, a payday loan service shall reasonably attempt to determine the number and amount of payday loans between payday loan services and the applicant that are outstanding .



State of Wisconsin
1999 - 2000 LEGISLATURE

PR
LRB-2688/2
RJM:wjl:km

SDON

EMNR

DNOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Reger

1 AN ACT to create 138.14 of the statutes; relating to: payday loan services and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the *state* fiscal estimate, which will be printed as
an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 138.14 of the statutes is created to read:
4 **138.14 Payday loan services. (1) DEFINITIONS.** In this section:
5 (a) "Applicant" means a person who obtains or seeks to obtain a payday loan.
6 (b) "Check" has the meaning given in s. 403.104 (6).
7 (c) "Department" means the department of financial institutions.
8 (d) "Payday loan" means a transaction between a person and the issuer of a
9 check in which the person agrees to do all of the following:

Payday loans should not be used if the loan proceeds are needed for more than 14 days.

- 1. Accept a check from the issuer.
- 2. Hold the check for a period of time without negotiating or presenting the check for payment.
- 3. Pay to the issuer the amount of the check, less any applicable fee, upon accepting the check.

(e) "Payday loan ^{provider} service" means a person licensed under s. 138.09 who makes payday loans in the ordinary course of business.

(2) DISCLOSURE REQUIREMENTS. Before disbursing funds pursuant to a payday loan, a payday loan ~~service~~ shall provide all of the following to the applicant:

(a) A clear and conspicuous printed or typewritten notice indicating all of the following:

insert 9-15 ✓

an applicant should use a

- 1. That a payday loan is not intended to meet long-term financial needs.
- 2. That a payday loan is ^{only} meant to provide funds in a financial emergency.
- 3. That the applicant will be required to pay additional fees if the loan is refinanced rather than paid in full when due.

(b) A clear and conspicuous printed or typewritten notice comparing the cost ^{to the applicant if the} of the proposed payday loan ^{is} paid in full at the end of the loan term with the cost ^{to the applicant if} of the payday loan ^{is} ~~consecutively~~ ^{at the end of the loan term 8 consecutive times} refinanced and then paid in full ^{16 weeks after} the date of the original payday loan.

(c) A clear and conspicuous printed or typewritten notice that the applicant may cancel the transaction, at no cost to the applicant, at any time before receiving the funds pursuant to the payday loan.

(d) Educational materials provided by the department under sub. (4).

(3) POSTING REQUIREMENT. A payday loan ~~service~~ shall post a copy of each notice required under sub. (2) (a) and (c) at each entrance to the payday loan ~~service~~ and

where does business

each location where

provider

place

1 at each ~~location on the premises of the payday loan service~~ where, in the ordinary
2 course of business, an applicant signs a contract for a payday loan.

3 (4) **ADMINISTRATION.** (a) The department shall promulgate rules and prescribe
4 forms to ensure the efficient administration of this section. In addition, the
5 department shall develop educational materials to inform an applicant of the
6 potential costs of entering into a payday loan and of other options for borrowing funds
7 that may be available to the applicant.

8 (b) Upon the request of a payday loan service, the department shall supply the
9 payday loan service with copies of the educational materials developed under par.
10 (a). The department may charge a payday loan service a reasonable fee for
11 educational materials supplied under this subsection.

12 **SECTION 2. Nonstatutory provisions.**

13 (1) **SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN SERVICES.** No later
14 than the first day of the 6th month beginning after publication, the department of
15 financial institutions shall submit in proposed form the rules governing payday loan
16 services under section 138.14 (4) of the statutes, as created by this act, to the
17 legislative council staff under section 227.15 (1) of the statutes.

18 (2) **PAYDAY LOAN SERVICES STUDY COMMITTEE.** (a) The secretary of the department
19 of financial institutions shall establish a committee under section 15.04 (1) (c) of the
20 statutes to study consumer credit problems created by payday loans and payday loan
21 services, as defined under section 138.14 (1) of the statutes, as created by this act,
22 and shall recommend to the legislature a solution or policy alternatives with respect
23 to those problems. The committee shall consist of the secretary of the department
24 of financial institutions, or a person designated by the secretary, 3 members who
25 shall represent the interests of payday loan services, as defined under section 138.14

1 (1) of the statutes, as created by this act, and 3 members who shall represent the
2 public interest. The secretary of the department of financial institutions, or a person
3 designated by the secretary, shall serve as the chairperson of the committee.

4 (b) No later than the first day of the 12th month beginning after publication,
5 the committee shall submit a report of its findings and recommendations to the
6 legislature in the manner provided under section 13.172 (2) of the statutes. The
7 report shall include any proposed legislation that is necessary to implement the
8 recommendations made by the committee in its report.

9 **SECTION 3. Initial applicability.**

10 (1) The creation of section 138.14 of the statutes first applies to payday loans
11 made on the effective date of this subsection.

12 **SECTION 4. Effective date.**

13 (1) The creation of section 138.14 of the statutes and **SECTION 3** (1) of this act
14 take effect on the first day of the 8th month beginning after publication.

15 (END)

~~3. That the term of a payday loan is usually not greater than 12 days~~

2-15

4. 8. That refinancing a payday loan or entering into consecutive payday loans to pay an existing payday loan is not ^{advisable} ~~advised~~ and may cause financial hardship for the applicant.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2688/P2dn
RJM.:/....
WJ

Attached is the preliminary draft of the payday loan bill that you requested through Pat Essie. Please contact me with any questions or suggested changes. I will not redraft the bill in introducible form until you approve of the bill's contents. Per your request, I have provided Mr. Essie with a copy of this note and the attached bill.

In addition, you have requested three amendments to the bill. Because the amendments must refer to the page and line numbers of the bill, I can most efficiently draft the amendments after the bill is in final, introducible form. Thus, at this time I have not completed the amendments to the bill. However, the tentative language of the three amendments is as follows:

A m e n d m e n t o n e

CHARGES UPON DEFAULT. Notwithstanding ss. 138.09 (7) (c) and (e) and ~~§ 422.203~~ if an applicant fails to make a payment due under a payday loan on or before the payment's scheduled or deferred due date, the payday loan service shall not do any of the following:

- (a) Impose a delinquency charge.
- (b) Charge interest if the payment remains unpaid at least ^{two} ~~21~~ days after the payment's scheduled or deferred due date.

Amendment ~~two~~ ^{BI}

PAYDAY LOAN SERVICES STUDY COMMITTEE. (a) The secretary of the department of financial institutions shall establish a committee under ~~section 15.04~~ (1) (c) of the statutes to study consumer credit problems created by payday loans and payday loan services, as defined under section 138.14 (1) of the statutes, as created by this act, and shall recommend to the legislature ^a solution or policy alternatives with respect to those problems. The committee shall consist of the secretary of the department of financial institutions, or a person designated by the secretary, ~~3~~ ^{two} members who shall represent the interests of payday loan services, as defined under section 138.14 (1) of the statutes, as created by this act, and ~~3~~ ^{three} members who shall represent the public interest. The secretary of the department of financial institutions, or a person designated by the secretary, shall serve as the chairperson of the committee.

(b) No later than the first day of the 12th month beginning after publication, the committee shall submit a report of its findings and recommendations to the legislature

Handwritten notes:
- circled "may" with arrow pointing to "shall" in the first paragraph.
- "of the statutes" written next to "§ 422.203".
- "two" written above "21" in the second list item.
- circled "BI" next to "Amendment two".
- circled "S" next to "section 15.04".
- circled "a" next to "solution".
- circled "two" written above "3" in the committee paragraph.
- circled "three" written above "3" in the committee paragraph.
- circled "Providers" written vertically on the right side.
- circled "providers" written at the bottom.

in the manner provided under ~~section~~⁰ 13.172 (2)[✓] of the statutes. The report shall include any proposed legislation that is necessary to implement the recommendations made by the committee in its report.

Amendment ~~3~~ ^{Three} (B) (1)

REFINANCING ^{provider} PAYDAY LOANS. Notwithstanding ss. 138.09 (7) (f), 422.204[✓] and 422.206[✓], a payday loan ~~service shall~~^{may} not enter into a combined total of more than ~~4~~^{four} consecutive ~~payday loans, refinancing agreements, deferral agreements or consolidation agreements with an applicant if each loan or agreement is used by the applicant to pay or forestall payment of an existing debt under a payday loan with the payday loan~~

~~service~~
provider

may

In whole or in part

Once again, please contact me with any questions or suggested changes. I look forward to hearing from you.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

delete space

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2688/P2dn
RJM:wlj:km

May 3, 1999

Attached is the preliminary draft of the payday loan bill that you requested through Pat Essie. Please contact me with any questions or suggested changes. I will not redraft the bill in introducible form until you approve of the bill's contents. Per your request, I have provided Mr. Essie with a copy of this note and the attached bill.

In addition, you have requested three amendments to the bill. Because the amendments must refer to the page and line numbers of the bill, I can most efficiently draft the amendments after the bill is in final, introducible form. Thus, at this time I have not completed the amendments to the bill. However, the tentative language of the three amendments is as follows:

Amendment one

CHARGES UPON DEFAULT. Notwithstanding ss. 138.09 (7) (c) and (e) and 422.203 of the statutes, if an applicant fails to make a payment due under a payday loan on or before the payment's scheduled or deferred due date t do any of the following:

- (a) Impose a delinquency charge
- (b) Charge interest if the payment is not made by the payment's scheduled or deferred due date

Delete (a)
from AM 1

Amendment two

PAYDAY LOAN SERVICES STUDY COMMITTEE. Financial institutions shall, in cooperation with the department of financial institutions, to study consumer credit problems as defined under section 138.09(1) and to recommend to the legislature solutions to these problems. The committee shall consist of three members from financial institutions, or a person designated by the department of financial institutions, the interests of payday loan borrowers, and three members who shall represent the public interest. The secretary of the department of financial institutions, or a person designated by the secretary, shall serve as the chairperson of the committee.



**STATE OF WISCONSIN
LEGISLATIVE REFERENCE BUREAU**
Legal - Phone: 608/266-3561 Fax: 608/264-8522
Research - Phone: 608/266-0341 Fax: 608/266-5648
Website - www.legis.state.wi.us/lrb/

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- (b) No later than the first day of the 12th month beginning after publication, the committee shall submit a report of its findings and recommendations to the legislature

in the manner provided under s. 13.172 (2) of the statutes. The report shall include any proposed legislation that is necessary to implement the recommendations made by the committee in its report.

Amendment three

REFINANCING PAYDAY LOANS. Notwithstanding ss. 138.09 (7) (f), 422.204 and 422.206, a payday loan provider may not enter into a combined total of more than four consecutive payday loans, refinancing agreements, deferral agreements or consolidation agreements with an applicant if each loan or agreement is used in whole or in part by the applicant to pay or forestall payment of an existing debt under a payday loan with the payday loan provider.

Once again, please contact me with any questions or suggested changes. I look forward to hearing from you.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



So on

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

EMNR

NOTE

WPO: Please delete 2688/P3ins in documentum. There are no inserts for 2688/P3.

Reger

Providers

1 **AN ACT** *to create* 138.14 of the statutes; **relating to:** payday loan/ &&E&s and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version,
For further information see the **state** fiscal estimate, which will be printed as
an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 138.14 of the statutes is created to read:

--4

138.14 Payday loan/^{services} **(1) DEFINITIONS.** In this section:

- 5 (a) "Applicant" means a person who obtains or seeks to obtain a payday loan.
- 6 (b) "Check" has the meaning given in s. 403.104 (6).
- 7 (c) "Department" means the department of financial institutions.
- 8 (d) "Payday loan" means a transaction between a person and the issuer of a
- 9 check in which the person agrees to do all of the following:

1 1. Accept a check from the issuer.

2 2. Hold the check for a period of time ^{before} ~~without~~ negotiating or presenting the
3 check for payment.

4 3. Pay to the issuer the amount of the check, less any applicable fee, upon
5 accepting the check.

6 (e) "Payday loan provider" means a person licensed under s. 138.09 who makes
7 payday loans in the ordinary course of business.

8 (2) DISCLOSURE REQUIREMENTS. Before disbursing funds pursuant to a payday
9 loan, a payday loan provider shall provide all of the following to the applicant:

10 (a) A clear and conspicuous printed or typewritten notice indicating all of the
11 following:

12 1. That a payday loan is not intended to meet long-term financial needs.

13 ~~(Payday loans should not be used if the loan proceeds are needed for more than 14~~
14 ~~days.)~~

15 2. That an applicant should use a payday loan only to provide funds in a
16 financial emergency.

17 3. That the applicant will be required to pay additional fees if the loan is
18 refinanced rather than paid in full when due.

19 4. That refinancing a payday loan or entering into consecutive payday loans to
20 pay an existing payday loan is not advisable and may cause financial hardship for
21 the applicant.

22 (b) A clear and conspicuous-printed or typewritten notice comparing the cost
23 to the applicant if the ^{applicant pays the} payday loan ~~is paid~~ in full at the end of the loan term with the
24 cost to the applicant if the ^{applicant pays the payday loan in full after financing the amount of the} payday loan ~~is refinanced~~
25 consecutive times ~~and then paid in full.~~

1 (c) A clear and conspicuous printed or typewritten notice that the applicant
2 may cancel the transaction, at no cost to the applicant, at any time before receiving
3 the funds pursuant to the payday loan.

4 (d) Educational materials provided by the department under sub. (4).

5 (3) POSTING REQUIREMENT. A payday loan provider shall post a copy of each
6 notice required under sub. (2) (a) and (c) at each entrance to each location where the
7 payday loan provider does business and at each place where, in the ordinary course
8 of business, an applicant signs a contract for a payday loan.

The rules shall include a method for calculating the amounts required to be disclosed under sub. (2)(b).
under

9 (4) ADMINISTRATION. (a) The department shall promulgate rules and prescribe
10 forms to ensure the efficient administration of this section. In addition, the
11 department shall develop educational materials to inform an applicant of the
12 potential costs of entering into a payday loan and of other options for borrowing
13 funds that may be available to the applicant.

14 (b) Upon the request of a payday loan ~~service~~ provider, the department shall supply the
15 payday loan ~~service~~ provider with copies of the educational materials developed under par.

16 (a). The department may charge a payday loan ~~service~~ provider a reasonable fee for
17 educational materials supplied under this subsection.

18 **SECTION 2. Nonstatutory provisions.**

19 (1) SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN ~~SERVICES~~ PROVIDERS. No later
20 than the first day of the 6th month beginning after publication, the department of
21 financial institutions shall submit in proposed form the rules governing payday loan
22 ~~services~~ providers under section 138.14 (4) of the statutes, as created by this act, to the
23 legislative council staff under section 227.15 (1) of the statutes.

24 **SECTION 3. Initial applicability.**

1 (1) The creation of section 138.14 of the statutes first applies to payday loans
2 made on the effective date of this subsection.

3 **SECTION 4. Effective date.**

4 (1) The creation of section ~~138.14~~ of the statutes and SECTION 3 (1) of this act
5 take effect on the first day of the ^{12th}~~8th~~ month beginning after publication.

6 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2688/P3dn

RJM:/:....

Wlj

~~May 3, 1999~~

Attached is the ^{cap} ~~1/3~~ version of the preliminary draft that you requested through Pat Essie regarding payday loan providers. This draft incorporates a few technical changes (see relating clause, title to proposed s. 138.14, effective date and corrected reference to payday loan provider in proposed s. 138.14 (4) (b) and in nonstatutory material), along with other substantive changes requested through Pat Essie's office (clarification that & payday loan provider may negotiate or present a check provided by an applicant under proposed s. 138.14 (1) (d) 2.5 elimination of second sentence in proposed s. 138.14 (2) (a) 1. and clarification of disclosure required under proposed s. 138.14 (2) (b) and rules required under proposed s. 138.14 (4) g. Please contact me with any questions or suggested changes. I will not redraft the bill in introducible form until you approve of the bill's contents. Per your request, I have provided Mr. Essie with a copy of this note and the attached bill.

In addition, you have ^{cap} requested three amendments to the bill. Please refer to the drafter's note to the ~~1/2~~ ² version of the preliminary draft of this bill for the tentative language of these amendments. It is my understanding that you intend par. (a) of amendment one to be deleted.

~~Pat Essie's office has asked whether amendment one prohibits a payday loan provider from charging a non-sufficient funds (NSF) fee for returned checks. Among other things, the tentative language of amendment one states that a payday loan provider may not impose a delinquency charge if an applicant fails to make a payment when due under a payday loan. Although the term "delinquency charge" is not defined in the statutes or relevantly discussed in any Wisconsin caselaw, it is possible that a court would consider an NSF fee to be a delinquency charge prohibited by amendment one. If you intend to allow a payday loan provider to charge an NSF fee, I recommend creating an exemption for an NSF fee in amendment one.~~

Once again, please contact me with any questions or suggested changes. ~~Robert~~
~~forward to hearing from you~~

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2688/P3dn
RJM:wlj:km

June 1, 1999

Attached is the “P3” version of the draft that you requested through Pat Essie regarding payday loan providers. This draft incorporates a few technical changes (see relating clause, title to proposed s. 138.14, effective date and corrected reference to payday loan provider in proposed s. 138.14 (4) (b) and in nonstatutory material), along with other substantive changes requested through Pat Essie’s office (clarification that a payday loan provider may negotiate or present a check provided by an applicant under proposed s. 138.14 (1) (d) 2., elimination of second sentence in proposed s. 138.14 (2) (a) 1. and clarification of disclosure required under proposed s. 138.14 (2) (b) and rules required under proposed s. 138.14 (4)). Please contact me with any questions or suggested changes. I will not redraft the bill in introducible form until you approve of the bill’s contents. Per your request, I have provided Mr. Essie with a copy of this note and the attached bill.

In addition, you have requested three amendments to the bill. Please refer to the drafter’s note to the “P2” version of the draft of this bill for the tentative language of these amendments. It is my understanding that you intend par. (a) of amendment one to be deleted.

Once again, please contact me with any questions or suggested changes.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

PATRICK ESSIE PUBLIC AFFAIRS CONSULTING

FACSIMILE TRANSMITTAL SHEET

TO: Rob Marchant	FROM: Pat Essie
COMPANY: LRB	DATE: 10/4/99
FAX NUMBER: 264-6948	TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER:	SBNDJR-S REFERENCE NUMBER: 256-7701
RE:	YOUR REFERENCE NUMBER:

URGENT
 FOR REVIEW

 PLEASE REPLY
 PLEASE RECYCLE

NOTES/COMMENTS:

16 NORTH CARROLL STREET, #YOO, MADISON, WI 53703
 PHONE: 608-256-7701
 FAX: 608-251-8192

MEMORANDUM

DATE: October 4, 1999
TO: Rob Marchant, Drafting Attorney
RE: LRB-2688/P3

As we near the introduction of this legislation, there are a few changes and one question that need to be clarified.

Page 1, line 6 Check Definition - By defining check, will this prohibit electronic transmission transactions? ?

✓ **Page 2, line 1749 Disclosure Requirements** - Remove the phrase "is not advisable and" in line 18. Would like it to read as, "That refinancing a payday loan or entering into consecutive payday loans to pay an existing payday loan may cause financial hardship for the applicant."

✓ **Page 3, line 5-8 Posting Requirement** - Add the word "conspicuously" on **line 5** so that it reads 'A payday loan provider shall conspicuously post a copy of each...'. Remove the phrase on line 6 and 7 that reads "each entrance to each location where the payday loan provider does business and at" Would like it to read as, "A payday loan provider shall conspicuously post a copy of each notice required under sub. (2) (a) and (c) at each place where, in the ordinary course of business, an applicant signs a contract for a **payolay** loan."



RM NR

NOTE

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

1 AN ACT ~~to create~~ 138.14 of the statutes; relating to: payday loan providers and
2 granting rule-making authority.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~
For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 138.14 of the statutes is created to read:

4 **138.14 Payday loan providers.** (1) **DEFINITIONS.** In this section:

(5) (a) "Applicant" means ~~a person~~ ^{an individual} who obtains or seeks to obtain a payday loan.

(6) (b) "Check" has the meaning given in s. 403.104 (6).

(7) (c) "Department" means the department of financial institutions.

(8) (f) (a) "Payday loan" means ^{any of the following: TP 1. A} ~~a transaction between a person and the issuer of a~~

(9) ~~check~~ in which the person agrees to ~~do all of the following:~~

No
[delete #]

an individual with an account at a financial establishment and another person

INSERT Analysis

re-se

Insert 1-7

from the individual that draws on the account, to

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Accept a check ~~from the issuer~~ ^{from the individual} ^{that draws on the account, to} ^{not}
Hold the check for a period of time before negotiating or presenting the check
for payment, and to ^{not} ^{at any time} ^{individuals} before negotiating or presenting the check for payment,
Pay to the issuer ~~the amount of the check, less any applicable fee, upon~~ ^{an amount that is agreed to by the individual} ^{who is required to be} ^{and}
accepting the check.

Insert 2-5
6

(e) "Payday loan provider" means a person licensed under s. 138.09 who makes payday loans in the ordinary course of business.

(2) DISCLOSURE REQUIREMENTS. Before disbursing funds pursuant to a payday loan, a payday loan provider shall provide all of the following to the applicant:

(a) A clear and conspicuous printed or typewritten notice indicating all of the following:

1. That a payday loan is not intended to meet long-term financial needs.
2. That an applicant should use a payday loan only to provide funds in a financial emergency.
3. That the applicant will be required to pay additional fees if the loan is refinanced rather than paid in full when due.
4. That refinancing a payday loan or entering into consecutive payday loans to pay an existing payday loan ~~is not advisable and~~ may cause financial hardship for the applicant.

(b) A clear and conspicuous printed or typewritten notice comparing the cost to the applicant if the applicant pays the payday loan in full at the end of the loan term with the cost to the applicant if the applicant pays the payday loan in full after financing the amount of the payday loan at the end of the loan term 8 consecutive times.

1 (c) A clear and conspicuous printed or typewritten notice that the applicant
2 may cancel the transaction, at no cost to the applicant, at any time before receiving
3 the funds pursuant to the payday loan.

4 (d) Educational materials provided by the department under sub. (4).

5 (3) **POSTING REQUIREMENT.** A payday loan provider shall post a copy of each
6 notice required under sub. (2) (a) and (c) ~~at each entrance to each location where the~~
7 ~~payday loan provider does business and~~ ^{in a conspicuous location} at each place where, in the ordinary course
8 of business, an applicant signs a contract for a payday loan.

9 (4) **ADMINISTRATION.** (a) The department shall promulgate rules and prescribe
10 forms to ensure the efficient administration of this section. The rules shall include
11 a method for calculating the amounts required to be disclosed under sub. (2) (b). In,
12 addition, the department shall develop educational materials to inform an applicant
13 of the potential costs of entering into a payday loan and of other options for borrowing
14 funds that may be available to the applicant.

15 (b) Upon the request of a payday loan provider, the department shall supply
16 the payday loan provider with copies of the educational materials developed under
17 par. (a). The department may charge a payday loan provider a reasonable fee for
18 educational materials supplied under this subsection.

19 **SECTION 2. Nonstatutory provisions.**

20 (1) **SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN PROVIDERS.** No later
21 than the first day of the 6th month beginning after publication, the department of
22 financial institutions shall submit in proposed form the rules governing payday loan
23 providers under section 138.14 (4) of the statutes, as created by this act, to the
24 legislative council staff under section 227.15 (1) of the statutes.

25 **SECTION 3. Initial applicability.**

1 (1) The creation of section 138.14 of the statutes first applies to payday loans
2 made on the effective date of this subsection.

3 **SECTION 4. Effective date.**

4 (1) The creation of section 138.14 of the statutes and SECTION 3 (1) of this act
5 take effect on the first day of the 12th month beginning after publication.

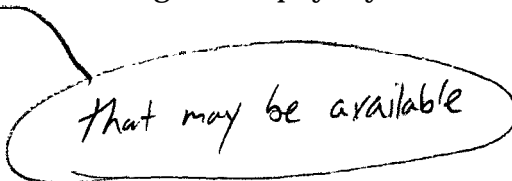
6 (END)

INSERT ANALYSIS

Currently, state and federal law contain numerous provisions regulating consumer loans (generally, loans of \$25,000 or less made to individuals for personal, family or household purposes). For example, under current law, a creditor in a consumer loan must provide the borrower under the loan with certain information before the loan is consummated. Among other things, the creditor must disclose the total amount financed in the transaction, the amount of the finance charge assessed in the transaction and the cost of the credit calculated as a yearly rate. The creditor must also provide the borrower with a notice that encourages the borrower to examine the loan documentation and that advises the borrower of certain rights.

This bill creates additional notice requirements that specifically apply to payday loans. In a typical payday loan transaction, the creditor accepts a personal check from the borrower, pays the borrower the amount of the check less any applicable finance charge and agrees to wait a short time, such as two weeks, before depositing the check. Under this bill, before disbursing funds pursuant to a payday loan, the payday loan provider must provide the borrower with a notice that compares the cost of the payday loan if it is paid in full when due with the cost of the payday loan if it is paid in full after being refinanced eight times. Furthermore, the payday loan provider must notify the borrower that a payday loan is not intended to meet long-term financial needs, that a payday loan should be used only in a financial emergency, that the borrower will be required to pay additional fees if the payday loan is not paid in full when due and that refinancing the payday loan, or entering into consecutive payday loans to pay an existing payday loan, may cause financial hardship.

This bill also requires the payday loan provider to notify the borrower that the borrower may cancel the **payday** loan at any time before receiving the loan funds. In addition, the payday loan provider must provide the borrower with materials, obtained from the department of financial institutions, that inform the borrower of the potential costs of entering into a payday loan and of other ~~possible~~ options for borrowing funds.



that may be available

INSERT 1-7

4 (d) "Financial establishment" means any organization that is authorized to do business under state or federal law and that holds a demand deposit, savings deposit or other asset account belonging to an individual.

4 (e) "Organization" has the meaning given in s. 19.42 (11).

End ms

INS 2-5

2. A transaction between an individual with an account at a financial establishment and another person, in which the person agrees to accept the individual's authorization to initiate an electronic fund transfer from the account, to wait for a period of time before initiating the electronic fund transfer and to pay to the individual, before initiating the electronic fund transfer, an amount that is agreed to by the individual. ¹⁰ⓐ

Lead us >

at any time

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2688/1dn

RJM:./:...

WJ

Representative Hoven:

1. Attached is a completed draft relating to payday loan providers. This draft incorporates three changes communicated to me by Pat Essie. These changes are:

(a) Amending the **draft** so that it covers payday loans that involve electronic fund transfers.

(b) Removing the language in proposed s. 138.14 (2) (a) 4.,[↓] stats., regarding the advisability of refinancing or entering into consecutive payday loans.

(c) Changing the posting **requirement** in proposed s. 138.14 (3),[↓] stats., to require posting in a conspicuous location at each place where, in the ordinary course of business, an applicant signs a contract for a payday loan.

2. This **draft** also corrects two other issues that I discovered while completing the draft. I have discussed both of these changes with Pat Essie's office. These changes are:

(a) Broadening the definition of "payday loan" to cover ~~non-typical~~^{atypical} payday loans (for example, loans for more than the amount of the applicant's check or loans that are not disbursed ~~immediately~~ upon acceptance of the applicant's check). See proposed s. 138.14 (1) (f),[↓] stats.

(b) Clarifying that a payday **loan** provider is anyone who makes payday loans in the ordinary course of business and who is **required to be** licensed under s. 138.09. Without this change, the draft would not apply to a person who ordinarily makes payday loans and who is required to be licensed under s. 138.09, stats., but who has not obtained the required license.

3. In addition, this draft clarifies that a payday loan is a loan to an individual rather than a loan to a person (which would include a corporation or other entity or organization). This change is consistent with existing consumer protection laws that govern transactions that are entered into for personal, family or household purposes.

Please let me know if any of the above changes are not consistent with your intent.

[name: RJM]

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2688/1dn
RJM:wlj:jjf

October 15, 1999

Representative Hoven:

1. Attached is a completed draft relating to payday loan providers. This draft incorporates three changes communicated to me by Pat Essie. These changes are:

(a) Amending the draft so that it covers payday loans that involve electronic fund transfers.

(b) Removing the language in proposed s. 138.14 (2) (a) 4., stats., regarding the advisability of refinancing or entering into consecutive payday loans.

(c) Changing the posting requirement in proposed s. 138.14 (3), stats., to require posting in a conspicuous location at each place where, in the ordinary course of business, an applicant signs a contract for a payday loan.

2. This draft also corrects two other issues that I discovered while completing the draft. I have discussed both of these changes with Pat Essie's office. These changes are:

(a) Broadening the definition of "payday loan" to cover atypical payday loans (for example, loans for more than the amount of the applicant's check or loans that are not disbursed immediately upon acceptance of the applicant's check). See proposed s. 138.14 (1) (f), stats.

(b) Clarifying that a payday loan provider is anyone who makes payday loans in the ordinary course of business and who is *required* to be licensed under s. 138.09. Without this change, the draft would not apply to a person who ordinarily makes payday loans and who is required to be licensed under s. 138.09, stats., but who has not obtained the required license.

3. In addition, this draft clarifies that a payday loan is a loan to an individual rather than a loan to a person (which would include a corporation or other entity or organization). This change is consistent with existing consumer protection laws that govern transactions that are entered into for personal, family or household purposes.

Please let me know if any of the above changes are not consistent with your intent.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

2
LRB-2688/8
RJM:wlj:jf
& cmt
PmNR
DATE

TODAY



1999 BILL

1 **AN ACT** *to create* 138.14 of the statutes; **relating to:** payday loan providers and
2 granting rule-making authority.

never cut

Analysis by the Legislative Reference Bureau

Currently, state and federal law contain numerous provisions regulating consumer loans (generally, loans of \$25,000 or less made to individuals for personal, family or household purposes). For example, under current law, a creditor in a consumer loan must provide the borrower under the loan with certain information before the loan is consummated. Among other things, the creditor must disclose the total amount financed in the transaction, the amount of the finance charge assessed in the transaction and the cost of the credit calculated as a yearly rate. The creditor must also provide the borrower with a notice that encourages the borrower to examine the loan documentation and that advises the borrower of certain rights.

This bill creates additional notice requirements that specifically apply to payday loans. In a typical payday loan transaction, the creditor accepts a personal check from the borrower, pays the borrower the amount of the check less any applicable finance charge and agrees to wait a short time, such as two weeks, before depositing the check. Under this bill, before disbursing funds pursuant to a payday loan, the payday loan provider must provide the borrower with a notice that compares the cost of the payday loan if it is paid in full when due with the cost of the payday loan if it is paid in full after being refinanced eight times. Furthermore, the payday loan provider must notify the borrower that a payday loan is not intended to meet long-term financial needs, that a payday loan should be used only in a financial emergency, that the borrower will be required to pay additional fees if the payday

BILL

loan is not paid in full when due and that refinancing the payday loan, or entering into consecutive payday loans to pay an existing payday loan, may cause financial hardship.

This bill also requires the payday loan provider to notify the borrower that the borrower may cancel the payday loan at any time before receiving the loan funds. In addition, the payday loan provider must provide the borrower with materials, obtained from the department of financial institutions, that inform the borrower of the potential, costs of entering into a payday loan and of other options for borrowing funds that may be available.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 138.14 of the statutes is created to read:

2 **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

3 (a) "Applicant" means an individual who obtains or seeks to obtain a payday
4 loan.

5 (b) "Check" has the meaning given in s. 403.104 (6).

6 (c) "Department" means the department of financial institutions.

7 (d) "Financial establishment" means any organization that is authorized to do
8 business under state or federal law and that holds a demand deposit, savings deposit
9 or other asset account belonging to an individual.

10 (e) "Organization" has the meaning given in s. 19.42 (11).

11 (f) "Payday loan" means any of the following:

12 1. A transaction between an individual with an account at a financial
13 establishment and another person, in which the person agrees to accept from the
14 individual a check that draws on the account, to hold the check for a period of time
15 before negotiating or presenting the check for payment and to pay to the individual,

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1 at any time before negotiating or presenting the check for payment, an amount that
2 is agreed to by the individual.

3 2. A transaction between an individual with an account at a financial
4 establishment and another person, in which the person agrees to accept the
5 individual's authorization to initiate an electronic fund transfer from the account, to
6 wait for a period of time before initiating the electronic fund transfer and to pay to
7 the individual, at any time before initiating the electronic fund transfer, an amount
8 that is agreed to by the individual.

9 (g) "Payday loan provider" means a person who is required to be licensed under
10 s. 138.09 and who makes payday loans in the ordinary course of business.

11 (2) **DISCLOSURE REQUIREMENTS.** Before disbursing funds pursuant to a payday
12 loan, a payday loan provider shall provide all of the following to the applicant:

13 (a) A clear and conspicuous printed or typewritten notice indicating all of the
14 following:

- 15 1. That a payday loan is not intended to meet long-term financial needs.
- 16 2. That an applicant should use a payday loan only to provide funds in a
17 financial emergency.
- 18 3. That the applicant will be required to pay additional fees if the loan is
19 refinanced rather than paid in full when due.
- 20 4. That refinancing a payday loan or entering into consecutive payday loans to
21 pay an existing payday loan may cause financial hardship for the applicant.

22 (b) A clear and conspicuous printed or typewritten notice comparing the cost
23 to the applicant if the applicant pays the payday loan in full at the end of the loan
24 term with the cost to the applicant if the applicant pays the payday loan in full after

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1 financing the amount of the payday loan at the end of the loan term 8 consecutive
2 times.

3 (c) A clear and conspicuous printed or typewritten notice that the applicant
4 may cancel the transaction, at no cost to the applicant, at any time before receiving
5 the funds pursuant to the payday loan. ✓

6 (d) Educational materials provided by the department under sub. (4).

7 (3) **POSTING REQUIREMENT.** A payday loan provider shall post a copy of each
8 notice required under sub. (2) (a) and (c) in a conspicuous location at each place
9 where, in the ordinary course of business, an applicant signs a contract for a payday
10 loan.

11 (4) **ADMINISTRATION.** (a) The department shall promulgate rules and prescribe
12 forms to ensure the efficient administration of this section. The rules shall include
13 a method for calculating the amounts required to be disclosed under sub. (2) (b). In
14 addition, the department shall develop educational materials to inform an applicant
15 of the potential costs of entering into a payday loan and of other options for borrowing
16 funds that may be available to the applicant.

17 (b) Upon the request of a payday loan provider, the department shall supply
18 the payday loan provider with copies of the educational materials developed under
19 par. (a). The department may charge a payday loan provider a reasonable fee for
20 educational materials supplied under this subsection.

21 **SECTION 2. Nonstatutory provisions.**

22 (1) **SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN PROVIDERS.** No later
23 than the first day of the 6th month beginning after publication, the department of
24 financial institutions shall submit in proposed form the rules governing payday loan

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1 providers under section 138.14 (4) of the statutes, as created by this act, to the
2 legislative council staff under section 227.15 (1) of the statutes.

3 **SECTION 3. Initial applicability.**

4 (1) The creation of section 138.14 of the statutes first applies to payday loans
5 made on the effective date of this subsection.

6 **SECTION 4. Effective date.**

7 (1) The creation of section 138.14 of the statutes and **SECTION 3 (1)** of this act
8 take effect on the first day of the 12th month beginning after publication.

9 **(END)**

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2688/02a
RJM:wlj:jt

2 dn

October 15, 1999

1. This redraft corrects a typo technical error that was included in the "1" version. I apologize for any inconvenience this error has caused. The remainder of this drafter's note is taken from the "1" version.

Representative Hoven:

1. Attached is a completed draft relating to payday loan providers. This draft incorporates three changes communicated to me by Pat Essie. These changes are:

(a) Amending the draft so that it covers payday loans that involve electronic fund transfers.

(b) Removing the language in proposed s. 138.14 (2) (a) 4., stats., regarding the advisability of refinancing or entering into consecutive payday loans.

(c) Changing the posting requirement in proposed s. 138.14 (3), stats., to require posting in a conspicuous location at each place where, in the ordinary course of business, an applicant signs a contract for a payday loan.

2. This draft also corrects two other issues that I discovered while completing the draft. I have discussed both of these changes with Pat Essie's office. These changes are:

(a) Broadening the definition of "payday loan" to cover atypical payday loans (for example, loans for more than the amount of the applicant's check or loans that are not disbursed immediately upon acceptance of the applicant's check). See proposed s. 138.14 (1) (f), stats.

(b) Clarifying that a payday loan provider is anyone who makes payday loans in the ordinary course of business and who is **required to be** licensed under s. 138.09. Without this change, the draft would not apply to a person who ordinarily makes payday loans and who is required to be licensed under s. 138.09, stats., but who has not obtained the required license.

3. In addition, this draft clarifies that a payday loan is a loan to an individual rather than a loan to a person (which would include a corporation or other entity or organization). This change is consistent with existing consumer protection laws that govern transactions that are entered into for personal, family or household purposes.

Please let me know if any of the above changes are not consistent with your intent.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2688/2dn
RJM:wj&cmh:hmh

October 15, 1999

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**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 6/2/99

To: Representative Hoven

Relating to LRB drafting number: LRB-2688/ 2

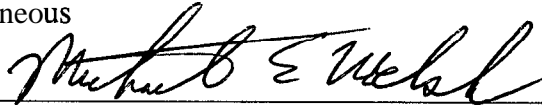
Topic

Payday loan companies

Subject(s)

Fin. Inst. - int. rates/loans, Fin. Inst. - miscellaneous

1. **JACKET** the draft for introduction _____



in the Senate or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert J. Marchant, Legislative Attorney
Telephone: (608) 261-4454